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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/125,479 05/06/99 LANCASTER R LAUS-24408

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LM02/0830

EXAMINER

RETTA, Y

ART UNIT

PAPER NUMBER

2764

DATE MAILED:

08/30/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/125,479

Applicant(s)

Roger Lancaster

Examiner

Yehdega Retta

Group Art Unit

2764

☒ Responsive to communication(s) filed on Jun 12, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-13 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-13 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to amendment filed on 6/12/00.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claim 1, the preamble recites "A contract exchange comprising". It is not clear whether Applicant is claiming a system (apparatus) or a method.

6. Claims 2-5 are rejected since they are dependent on rejected claim.

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***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 10-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. Claim 10 does not recite a series of steps to be performed on a computer. The specification does not recite a specific machine or manufacture, because the specification does not disclose specific hardware or software. The invention is not implemented on specific apparatus; therefore the invention is not directed to the technological arts. The invention appears to be a non-functional descriptive material on a medium. Therefore, the claim is non-statutory, because it is directed to a non-functional descriptive material, and it is not directed to the technological art.

10. Claims 11-13 are rejected since they depend on rejected claim.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd U.S. Patent No. 5,970,479 in view of Facts about futures trading; "Understanding Opportunities and Risks In Futures Trading" or Strong Investment; Customer Agreement.

13. As per claim 1, Shepherd disclose a central clearing house; a cash deposition facility, such as computer based cash management fund, electronically linked to the central clearing house computer; and automated real time screen trading system linked to the central clearing house computer; contract exchange creates, trades and closes indivisible financial package contracts each of which have two parties, a buyer and seller (see fig. 1 and col. 9 line 42 to col. 10 line 23); credit immediately transferred from the trading account of the party making the loss to the party making the profit (see col. 24 lines 59-67).

The following cited limitations "the price of the contracts is determined by a market; investors make sufficient funds available to a trading account from a depositing facility account (bank) to cover the proportion of the value of a contract, as determined by the gearing (leverage) ratio; as the price moves in the market, the parties to contacts gain or lose the entire changed value of the contacts they hold; either the buyer or the seller makes an incremental profit after each price movement and the counter party makes an incremental loss; the clearing hose holds options on all the contracts and is able to exercise its option rights to dispose of some or all of a party's contracts in the market if that party's trading, or assigned funds became insufficient to cover the proportion of the value of the contracts held, as determined by the leverage ratio; should the clearing house be unable to dispose of the contracts required in the market then when the contract

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price moves such that the party's funds fall to zero, it is able to close all that party's contracts at that price, simultaneously closing all the contracts held by the counter parties; closing takes place without delay and without the involvement of any other parties", are not steps performed by the contract exchange, they are merely statements on how the contract agreement should be, and they are standard practice included as terms and conditions of agreement. Shepherd teaches contract agreement and valuation of the contract (see col. 12 line 39 to col. 14 line 6), but does not explicitly show the contract including such limitations. However, official notice is taken that is old and well known in the art of futures contract for contract to be determined by the market, since the price of the contract changes continually throughout the day, and to include the rest of the cited limitations. It would have been obvious to one of ordinary skill in the art at the time of applicants invention was made to implement a contract with those terms and conditions, since they conform with the standards or regulations of futures contracts. (For reference, see Strong Investment's, customer agreement under Margin Agreement or York Securities Margin Agreement and Facts about futures trading). The Strong Investment customer agreement shows the broker being given the right to debit any account including the safekeeping account with out notifying the investor.

14. Regarding claim 6, Shepherd disclose a central clearing house; a cash deposition facility, such as computer based cash management fund, electronically linked to the central clearing house computer; and automated real time screen trading system linked to the central clearing house computer; contract exchange creates, trades and closes indivisible financial package

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contracts each of which have two parties, a buyer and seller (see fig. 1 and col. 9 line 42 to col. 10 line 23); credit immediately transferred from the trading account of the party making the loss to the party making the profit (see col. 24 lines 59-67).

Shepherd shows, determining the price of the contracts by operation of a market (see col. 12 lines 39-65). Shepherd does not explicitly show, gearing the contracts and monitoring the funds to ensure each investor has available to ensure each investor has sufficient funds available in a trading account to cover the proportion of the value of a contract, as determined by the gearing ratio, before an investor is permitted to open contracts to buy or sell; exercising option rights to dispose of some or all of a party contracts in the market if that party's funds become insufficient as determined by the gearing ratio; exercising option rights to dispose some or all of a party contract...; if unable to dispose, closing all that party's contracts.... Official notice is taken that is old and well known in the art of futures contract to gear the contracts and monitor the fund since the price of the contract changes continually throughout the day, therefore changing the value of the account and to include terms and conditions in contract agreement. It would have been obvious to one of ordinary skill in the art at the time of applicants invention was made to implement a contract with those terms and conditions, since they conform with the standards or regulations of futures contracts. (For reference, see Strong Investment's, customer agreement under Margin Agreement or York Securities Margin Agreement and Facts about futures trading)

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15. As per claims 2-5, 7, 8, the cited limitations "wherein the clearing house exercising its option rights and attempting to dispose of a party's contracts in the market and counter party enters the opposite parameter of the market, then the clearing house may close all the party and counter party contracts that are in the market at the same time; the clearing house may close sufficient of the party's contracts with the counter party's contracts so that the party no longer has insufficient funds to cover the proportion of the value of the contracts held at the price of the market parameter; clearing house enters into a purchase of contract with the buyer and seller of a contract at the same price ..." are all inherent to the standard practice of the contract agreements between the clearing house or broker and the seller and buyer of the contract (for reference, see Basic facts about futures trading page 6-8 and Strong Investment's Customer agreements or York Securities Margin Agreement).

### *Conclusion*

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on Monday-Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)



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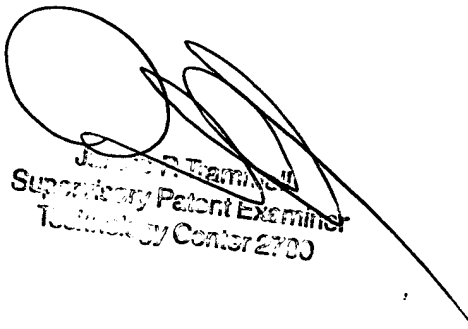
or:

(703) 308-5397, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive Arlington, Virginia, (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Examiner  
Yehdega Retta  
Art Unit 2764  
August 24, 2000

  
James A. Thammacharn  
Supervisory Patent Examiner  
Technology Center 2700